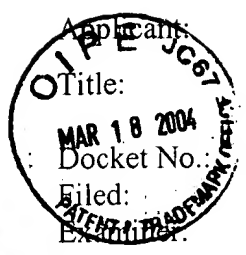


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Applicant: Jiandong Huang et al.

Title: MULTIPLE NETWORK FAULT TOLERANCE VIA REDUNDANT NETWORK CONTROL

Docket No.: H16-26156 (256.044US1)

Serial No.: 09/513010

Filed: February 25, 2000

Due Date: March 15, 2004

Examiner: Emerson Puente

Group Art Unit: 2113

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**MS Appeal Brief**

Commissioner for Patents

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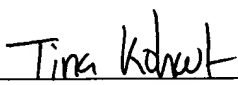
- ☒ A return postcard.
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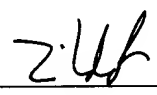
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
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(GENERAL)



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Jiandong Huang et al.	)	Examiner: Emerson Puente
	)	
Serial No.: 09/513010	)	Group Art Unit: 2184
	)	
Filed: February 25, 2000	)	Docket: H16-26156 (256.044US1)

For: MULTIPLE NETWORK FAULT TOLERANCE VIA REDUNDANT  
NETWORK CONTROL

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**REPLY TO EXAMINER'S ANSWER**

Mail Stop Appeal Brief  
Commissioner for Patents  
P.O.Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is presented in response to the Examiner's Answer Brief mailed January 15, 2004, in the above-identified application.

The reply brief is filed in triplicate. Please charge any additional required fees or credit overpayment to Deposit Account 19-0743. Appellant respectfully repeats his request for reversal of the Examiner's rejection of pending claims 1-10 and 31-52.



**REPLY TO EXAMINER'S ANSWER**

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## 1. ARGUMENT

1) *Issue: Whether claims 1-9, 31-40, and 42-51 are unpatentable under 35 USC § 102(b) as being anticipated by Kohno (U.S. Patent no. 5,153,874).*

The Examiner's Answer contends that the grammatical structure "either...or..." as employed in the above-cited section of the claims should not be held to have the plain English meaning of indicating mutually exclusive alternatives, but should instead be held to be the logical construct "OR", as is used to compute a positive result if any one of a plurality of elements are positive. This reading appears to intentionally ignore the word "either" as is used in part of the "either...or..." construct as recited in the claims, and intentionally ignores the plain English meaning of the construct while seeking to invoke a mathematical or logical construct which is nowhere suggested.

Applicant points out that logical operators such as "AND", "OR", "XOR", and the like, are traditionally presented in all capital letters for identification, and are employed for operation on binary digits or bits rather than on English words or claim elements. There is no suggestion or other reason to believe that applicants intended the "either...or..." portion of the claims to be read by determining a positive mathematical or logical result based on analysis of binary digits or other variables.

The Examiner's Answer further ignores the term "either", recited in the claims as part of the "either...or..." construct, which further makes the meaning of the claims clear in their present form. The term "Either" when used itself being defined as "one of two or more", while Either-or is defined as "an unavoidable choice or exclusive division between only two alternatives". (see, *Webster's Third New International Dictionary of the English Language Unabridged*, Springfield: Merriam-Webster, 1993). Both definitions clearly indicate that the presence of the "Either" term should unambiguously indicate that only one of the two elements is being referenced.

Because the claim language clearly distinguishes these pending claims from the cited reference, reversal of the rejection of these pending claims 1-9, 31-40, and 42-51, and of the dependent claims 10, 41, and 52 that depend therefrom, is respectfully requested.

2) *Issue: Whether claims 10, 41, and 52 are unpatentable under 35 USC § 103(a) as being anticipated by Kohno (U.S. Patent no. 5,153,874) in view of Momona (U.S. Patent no. 6,434,117).*

The Examiner's Answer suggests that the Applicant can't address either application specifically, or reference improper motivation for combination of the references cited by the Examiner himself with respect to a specific cited reference. Applicant's assertion that motivation to combine the references is not present in Momona was not to be taken as attacking one reference and not the other, but was intended to show that the motivation cited for combining the references in an attempt to anticipate the pending claims was improper.

Applicant further addressed both references to show that certain elements, such as the claimed intermediate nodes, were not present in either reference. The intermediate nodes of the present invention are not recited as being simple repeaters, to reduce distortion, but explicitly include recitation of separate selection processes for selecting connections leading to and from the intermediate nodes for routing data in a network. The present invention is therefore not simply a repeater designed to reduce some sort of distortion, but employs intermediate nodes to enhance routing flexibility and network operability as various links between nodes fail.

Applicant also stresses that the cited motivation of being to "lessen distortion" has not been shown to actually be present in Momona, and even if it were present would be inconsistent with the function and purpose of the pending claims. The cited motivation is therefore not applicable to the recited structure and function of the present invention.

Because Momona fails to consider intermediate nodes as are recited in the claims of the present invention, and because Momona fails to provide proper motivation for combination with Kohno, applicant believes these claims are allowable over the cited art. Reversal of the rejection of these claims 10, 41, and 52 is therefore respectfully requested.

## 2. SUMMARY

Applicants believe the claims are in condition for allowance and request withdrawal of the rejections to the pending claims. It is respectfully submitted that the cited art neither anticipates nor renders the claimed invention obvious and that the claimed invention is therefore patentably distinct from the cited art. It is respectfully submitted that claims 1-23 should therefore be allowed, and reversal of the Examiner's rejections of pending claims 1-23 is respectfully requested.

Respectfully submitted,

JIANDONG HUANG et al.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER &  
KLUTH, P.A.


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Date

*Mar. 15 '04*

By



John M. Dahl

Reg. No. 44,639

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Name

*Tina Kohut*

Signature

